

Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

EMILIANO HERNANDEZ-LOMBERA,

Defendant.

NO. CR18-279RSL

**PROTECTIVE ORDER**

This matter comes before the Court on the United States' Stipulated Motion for a Protective Order regarding discovery materials, as permitted by Fed. R. Crim. P. 16(d). Having considered the record and files herein, the Court finds there is good cause to grant the stipulated motion, and hence:

IT IS HEREBY ORDERED that the discovery materials discussed in the Motion for the Protective Order and referred to therein as "Protected Material," marked specially as "Protected Material," may be produced to counsel for defendant Hernandez-Lombera in this case.

IT IS FURTHER ORDERED that possession of Protected Material is limited to the attorneys of record in this case for defendant Hernandez-Lombera and their staff, and to any investigators, expert witnesses, and other agents the attorneys of record retained in connection with this case. The attorneys of record, and their investigators, expert

1 witnesses, and other agents can review Protected Material with defendant Hernandez-  
2 Lombera. Defendant Hernandez-Lombera can inspect and review Protected Material, but  
3 shall not be allowed to possess, photograph, or record Protected Material or otherwise  
4 retain Protected Material or copies thereof.

5 IT IS FURTHER ORDERED that defense counsel shall not provide Protected  
6 Material or copies thereof to any other person outside his or her law office, including  
7 defendant Hernandez-Lombera or his family or associates.

8 IT IS HEREBY FURTHER ORDERED that defendant Hernandez-Lombera,  
9 defense counsel, and others to whom disclosure of the content of the Protected Material  
10 may be necessary to assist with the preparation of the defense, shall not disclose the  
11 Protected Material or its contents, other than as necessary for the preparation of defenses  
12 at trial and in subsequent appellate proceedings, if necessary. Specifically, the attorneys  
13 of record and members of the defense team acknowledge that providing copies of the  
14 Protected Material to defendant Hernandez-Lombera and other persons is prohibited, and  
15 agree not to duplicate or provide copies of the Protected Material to defendant Hernandez-  
16 Lombera and other persons. This order does not limit employees of the United States  
17 Attorney's Office for the Western District of Washington from disclosing the Protected  
18 Material to members of the United States Attorney's Office, federal law enforcement  
19 agencies, the Court, or witnesses in order to pursue other investigations or the prosecution  
20 in this case. Nor does it limit employees of the United States Attorney's Office for the  
21 Western District of Washington from disclosing the Protected Material to the defense as  
22 necessary to comply with the government's discovery obligations.

23 Nothing in this Protective Order prohibits defense counsel from showing the  
24 Protected Material, or reviewing its contents, with defendant Hernandez-Lombera or with  
25 others to whom disclosure may be necessary to assist with the preparation of the defense  
26 at trial and in subsequent appellate proceedings, if necessary.

1 IT IS FURTHER ORDERED that if counsel for any party finds it necessary to file  
2 any documents marked as Protected Material, the material shall be filed under seal with the  
3 Court.

4 Nothing in this Order shall prevent any party from seeking modification of this  
5 Protective Order or from objecting to discovery that it believes to be otherwise improper.  
6 The parties agree that in the event that compliance with this Order makes it difficult for  
7 defense counsel to adhere to their Sixth Amendment obligations, or otherwise imposes an  
8 unworkable burden on counsel, defense counsel shall bring any concerns about the terms  
9 of the Order to the attention of the government. The parties shall then meet and confer  
10 with the intention of finding a mutually acceptable solution. In the event that the parties  
11 cannot reach such a solution, defense counsel shall have the right to bring any concerns  
12 about the scope or terms of the Order to the attention of the Court by way of a motion.

13 Nothing in this order should be construed as imposing any discovery obligations on  
14 the government that are different from those imposed by case law and Rule 16 of the  
15 Federal Rules of Criminal Procedure. The failure to designate any materials as provided  
16 in paragraph 2 shall not constitute a waiver of a party's assertion that the materials are  
17 covered by this Protective Order.

18 This Protective Order does not constitute a ruling on the question of whether any  
19 particular material is properly discoverable or admissible and does not constitute any ruling  
20 on any potential objection to the discoverability of any material.

21 IT IS FURTHER ORDERED that at the conclusion of the case, the Protected  
22 Material shall be stored in a manner to ensure that it is not subsequently duplicated or  
23 disseminated in violation of this Protective Order.

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1 The Clerk of the Court is directed to provide a filed copy of this Protective Order to  
2 all counsel of record.

3 DATED this 10 day of June, 2019.

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6  HON. ROBERT S. LASNIK  
7 United States District Judge

8 Presented by:

9 s/C. Andrew Colasurdo

10 C. ANDREW COLASURDO

11 Assistant United States Attorney  
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